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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/627,637	07/28/2000	Kenichi Oinoue	P/3541-6	2855

7590 05/18/2006

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EXAMINER

AGGARWAL, YOGESH K

ART UNIT	PAPER NUMBER
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2622

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/627,637	OINOUE, KENICHI	
	Examiner	Art Unit	
	Yogesh K. Aggarwal	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-32 is/are pending in the application.
- 4a) Of the above claim(s) 24 and 26 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-32 is/are allowed.
- 6) ☒ Claim(s) 21-23 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments with respect to claims 21-23, 25 and 27-32 have been considered but are moot in view of the new ground(s) of rejection.

Election/Restrictions

2. Applicant's election without traverse of claims 21-23, 25 and 27-32 in the reply filed on 12/21/2005 is acknowledged.

Claim Objections

3. Applicant is advised that claim 28 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 27. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP 706.03(k).
4. Applicant is advised that claim 30 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 29. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP 706.03(k).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 21-23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steinberg et al. (US Patent # 6,628,325) in view of Mishra (US Patent # 6,075,768).

[Claims 21 and 23]

Steinberg et al. teaches an electronic camera comprising a recording medium, which records image data obtained by shooting (figure 9 teaches an electronic camera integrated with communication with a PCMCIA card 36);

determination means which determines whether or not the obtained image data is transmittable to a communication base station by wireless communication means, when an amount of image data recorded on the recording medium exceeds a preset memory capacity (e.g. figure 17 teaches at step 276 if a camera is connected to the network for downloading when it is determined at step 274 that the image data recorded on the recording medium exceeds the memory capacity, col. 12 line 61-col. 13 line 9, col. 4 lines 57-60);

Steinberg fails to teach changing means which changes an amount of image data to be transmitted by the wireless communication means, when the determination means determines that the obtained image data is not transmittable; and the communication means provided as means, which transmits the obtained image data in an amount which is equal to the changed amount of image data to be transmitted to the communication base station.

However Mishra teaches that when the network is found to be congested (due to which the image data is not transmittable) the target video quality is decreased (col. 6 lines 8-27, figure 2). The video quality of the encoder is adjusted to transmit the image data at the decreased image quality.

Therefore taking the combined teachings of Steinberg and Mishra, it would be obvious to one skilled in the art at the time of the invention to have been motivated to have decreased the video quality of the transmitted image data when the image data is found to be not transmittable in order to allow efficient usage of the network bandwidth and graceful degradation in image quality under overloads.

[Claim 22]

Steinberg teaches that the camera-device is first programmed and programmed instructions are then performed (col. 12 lines 61-63). Therefore the memory is preprogrammed to have an amount of data that is recordable shown as x% in figure 17. Mishra further teaches that it is determined at step 274 that the image data recorded on the recording medium exceeds the memory capacity, (col. 12 line 61-col. 13 line 9, col. 4 lines 57-60) and at step 276 it is determined if a camera is connected to the network for downloading (image is transmittable based on whether a camera is connected to the network).

[Claim 25]

This is a method claim corresponding to apparatus claim 21 and is therefore analyzed and rejected based upon apparatus claim 21.

Allowable Subject Matter

7. Claims 28-32 are allowed.

8. The following is a statement of reasons for the indication of allowable subject matter:

The prior art fails to teach said transmission control means includes judgment means to judge the capability of transmitting the recorded information to a nearest communication base station, and

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said setting means decreases the set memory capacity when said judgment means judge that there is a low capability to transmit the recorded information.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh K. Aggarwal whose telephone number is (571) 272-7360. The examiner can normally be reached on M-F 9:00AM-5:30PM.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571)-272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YKA

May 12, 2006

A handwritten signature in black ink, appearing to read 'David Ometz', with a long horizontal line extending to the right.

DAVID OMETZ
SUPERVISORY PATENT EXAMINER